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School Finance Litigation: McCleary v. State of
Washington

9-2-2009

**Reporter's Verbatim Report of Proceedings, Wednesday,
September 2, 2009, Volume III--Session 4 of 4 [Pages 677-733]
07-2-02323-2**

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1 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

2 IN AND FOR KING COUNTY

3

4 MATHEW and STEPHANIE McCLEARY,)
 on their own behalf and on)
 5 behalf of KELSEY and CARTER)
 McCLEARY, their two children in)
 6 Washington's public schools;)
 ROBERT and PATTY VENEMA, on their) SUPREME COURT OF WA
 7 own behalf and on behalf of HALIE) No. 84362-7
 and ROBBIE VENEMA, their two)
 8 children in Washington's)
 public schools; and NETWORK)
 9 FOR EXCELLENCE IN WASHINGTON)
 SCHOOLS ("NEWS"), a state-wide)
 10 coalition of community groups,)
 public school districts, and)
 11 education organizations,)
)
 12 Petitioners,) KING COUNTY CAUSE
) No. 07-2-02323-2 SEA
 13 vs.)
)
 14 STATE OF WASHINGTON,)
)
 15 Respondent.)

16

17 REPORTER'S VERBATIM REPORT OF PROCEEDINGS

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19 WEDNESDAY, SEPTEMBER 2, 2009
 VOLUME III - Session 4 of 4

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21 --oOo--

22 Heard before the Honorable John P. Erlick, at King
 23 County Courthouse, 516 Third Avenue, Room W-1060,
 24 Seattle, Washington.

25 --oOo--

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CYNTHIA A. KENNEDY, RPR
CSR No. 3005
Official Court Reporter
King County Superior Court
516 Third Avenue, C912
Seattle, Washington 98104

(206) 296-9188

1 A P P E A R A N C E S:

2

 --oOo--

3

4 THOMAS F. AHEARNE, CHRISTOPHER G. EMCH, and EDMUND W.
5 ROBB, Attorneys at Law, appearing on behalf of the
6 Petitioner;

6

7 WILLIAM G. CLARK and CARRIE L. BASHAW, Assistant
8 Attorney Generals, appearing on behalf of the
9 Respondent.

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1 CHRONOLOGICAL INDEX

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4 WEDNESDAY, SEPTEMBER 2, 2009 - Afternoon Session
(Resumed)

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KENNETH EMMIL (Resumed)

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Direct (Resumed) by Mr. Ahearne 682

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8 Adjourned 733

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1	EXHIBIT INDEX	
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4	EXHIBIT	ADMITTED
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1 SEATTLE, WASHINGTON
2 WEDNESDAY, SEPTEMBER 2, 2009
3 AFTERNOON SESSION - 2:50 P.M.

4 --oOo--

5 THE COURT: Please be seated.

6 MR. AHEARNE: Thank you, Your Honor.

7 BY MR. AHEARNE:

8 Q. Please ask you to look at trial Exhibit 422.
9 Do you have that in front of you?

10 A. Yes.

11 Q. Is that the F-196 for the '07-'08 school year
12 for Coleville School District?

13 A. Yes.

14 Q. If I can ask you to look at the cover,
15 please. And under debt service fund under total
16 expenditures there's a \$532,000 figure. Do you see
17 that?

18 A. Yes.

19 Q. What does that pay for?

20 A. That's the mortgage for our bond, basically
21 for our building. People get, you know -- we pass a
22 bond and that means people go out and invest in bonds.
23 That's us paying them back.

24 Q. And the bonds that they're paying for, what
25 did they pay for?

1 A. This particular one was the new high school
2 in '92.

3 Q. That's the Coleville High School we talked
4 about earlier?

5 A. Right.

6 Q. Okay. If I can ask you to turn to page 17,
7 please. It says in the upper-left column 17.

8 A. Okay.

9 Q. There's a column in the middle that says
10 number activity, title, amount. Do you see that?

11 A. Right. Those are activity codes.

12 Q. Okay.

13 A. Yes.

14 Q. Could you -- if you look at activity code 61
15 through 64, could you tell me generally what those pay
16 for?

17 A. Yeah, that is to maintain and operate our
18 buildings, our school buildings.

19 Q. What kinds of things are they?

20 A. It's the custodians. That's maintenance
21 supervisor. That's materials. That's custodial
22 supplies. That's contracts we have, like -- you know,
23 we have -- there's some systems in our school district
24 that we don't have the people that have the expertise
25 to take care of them, HVAC, electrical, especially fire

1 suppressant. That's a pretty big deal so we pay
2 companies out there contracted to maintain those
3 systems for us. So that's typically what those codes
4 are.

5 Q. Okay. So if I were to take the amount that's
6 shown under activity code 61 through 64, in other
7 words, the cost of operating the buildings that --

8 A. Right. Operational costs, right.

9 Q. So if I were to take that amount and add it
10 to the service fund amount that you talked about
11 earlier, would that be the -- basically the cost of
12 owning and operating the buildings for the Coleville
13 School District in this year?

14 A. Right. You have 1.1 here and approximately
15 \$1.6 million, yeah.

16 Q. I'll just -- does that \$1.6 million figure
17 include the Capital Projects Funds amounts?

18 A. No, that's not Capital Projects.

19 Q. Okay.

20 A. That's another 122,000 on top of that.

21 Q. Okay. If I could ask you to look at --

22 A. But that was all for the same thing, though.
23 I mean, that went towards that but that's not including
24 that. That number's not including that.

25 Q. Okay. If I could ask you to look at activity

1 code 27, please.

2 A. Okay. Teaching.

3 Q. And ask you -- if I can just go back to
4 that. I was saying that the Capital Projects number is
5 included in that. That's actually the actual cost to
6 Coleville of owning and operating its building in the
7 year is actually more than the 1.6 million?

8 A. Right, 122,000 more. Right.

9 Q. All right. I'd ask you to look at activity
10 code 27, please. If I could ask you to look at
11 activity code 27. Do you see that?

12 A. Yes. Teaching. Yeah.

13 Q. What does that pay for?

14 A. Basically that's all of the expenditure we
15 have in our district that is directly in the
16 classroom. That's the teacher's salary. That's the
17 materials, the books, the supplies that we -- that the
18 school district does purchase. That's in the classroom
19 directly.

20 Q. So the salaries for the classroom teachers.

21 A. Yes.

22 Q. Okay. And does Coleville pay any more than
23 the state funded salary schedule?

24 A. Any more than that?

25 Q. Right. To its teachers.

1 A. No. We pay what -- we -- it's a flow
2 through. The state gives us X amount and we pay it to
3 them based on their experience and education.

4 Q. So Coleville pays the state funded salary
5 schedule to its teachers and not more.

6 A. Correct.

7 Q. No supplemental contracts, no tri-contracts?

8 A. Not for the classroom teaching, no.

9 Q. Why?

10 A. Well -- why? Did you already ask? I'm
11 sorry. I missed that.

12 Q. Yeah, why.

13 A. That's what they're -- that's what we're
14 supposed to pay them. That's their salary. You mean
15 why don't we pay them more than that?

16 Q. Do other districts pay more?

17 A. Oh, around our state? Absolutely. Some
18 other school districts do, yes.

19 Q. And why doesn't Coleville?

20 A. Frankly, we don't have to. We have 350
21 lakes. We have snow skiing and snow boarding and
22 snowmobiling and fishing and hunting. In order for us
23 to keep our teachers we don't -- I mean, I understand
24 why other school districts have to do it but to keep
25 teachers and compete with other districts around us we

1 don't have to pay those things.

2 Q. In this activity code 27, does that include
3 all of the classroom -- all the materials that are used
4 in a classroom that the school district pays for?
5 That's in activity code 27?

6 A. No, there's other things used in the
7 classroom but those are purchased by the teachers or
8 kids. That's all the school district purchases in the
9 classroom.

10 Q. Is that activity code 27?

11 A. Right.

12 Q. All right. And how often does Coleville turn
13 around its textbooks?

14 A. Well, it varies, but we just purchased -- we
15 just purchased our math -- we just turned our math
16 curriculum around.

17 Q. Is this for the coming school year '09-'10?

18 A. This is going to start this year, correct.
19 Yes.

20 Q. And what age or what year were the textbooks,
21 the math textbooks that you're replacing?

22 A. Well, the high school is what we're replacing
23 this year, and those were when we built the new high
24 school in '92.

25 Q. So you've used the same curriculum and the

1 same textbooks since 1992 until they're being replaced
2 this coming year?

3 A. Right.

4 Q. And when the state passed House Bill 1209 in
5 1993 -- do you know what House Bill 1209 is?

6 A. Oh, yeah, absolutely.

7 Q. And when the state passed House Bill 1209,
8 did they provide Coleville additional resources to
9 realign their curriculum to buy new math books?

10 A. No, that was in '93.

11 MS. BASHAW: Objection, lack of foundation I
12 mean, we're talking about 20 something. Many, many
13 years ago. Lack of foundation.

14 THE COURT: One moment, counsel. I'm sorry.
15 I don't understand the objection as to lack of
16 foundation.

17 MS. BASHAW: Well, he's asking him about what
18 Coleville School District bought back when 1209 was
19 passed and I don't think this witness would necessarily
20 have a foundation to answer that question now 27 years
21 ago.

22 THE COURT: Well, he just did testify that
23 the math books were 1992 math books, so I can assume
24 that they were bought sometime -- well, I don't know
25 when they were bought. I'm assuming they were bought

1 somewhere around 1992.

2 MR. AHEARNE: May I just proceed?

3 THE COURT: The objection is overruled. You
4 may proceed, Mr. Ahearne.

5 THE WITNESS: I don't remember the question I
6 can try --

7 BY MR. AHEARNE:

8 Q. How long have you been at Coleville School
9 District?

10 A. 20 years.

11 Q. And so 20 years ago would have been --

12 A. '89.

13 Q. '89? And the math books that -- you are
14 buying new math books for the high school this coming
15 year, for the '09-2010 school year?

16 A. Yes.

17 Q. And those math books are replacing -- what's
18 the year of the math books that you are being
19 replacing?

20 A. They were replaced the same year we were
21 building the -- we were building the new high school.

22 Q. And what year was that?

23 A. That was '92. Bona (phonetic) Smith was the
24 principal. He was my principal. I was a teacher at
25 the high school and he was -- I remember him making a

1 huge deal about we need to make sure that we buy the
2 new math books for the high school and that was his big
3 thing so that's when we bought them.

4 Q. And those were bought in 1992 then?

5 A. Yes.

6 Q. And when was House Bill 1209 passed? Was
7 that before or after that?

8 A. It was after that.

9 Q. And when were the math Essential Academic
10 Learning Requirements adopted, before or after that?

11 A. After that.

12 Q. And when the state adopted the Essential
13 Academic Learning Requirements in math, did it provide
14 you additional funds to buy new math books to align
15 with the state's mandated Essential Academic Learning
16 Requirements?

17 A. Did the state give us funding for buying new
18 math books? No. But I guess I would say that Bona
19 Smith, you know, although he was kind of pushy about
20 that stuff was really a forward thinker and the math
21 books we bought in '92 were, you know, right up --
22 right up to snuff, you know, for '92 they were up to
23 snuff, but they're -- you know, they were -- I mean, we
24 were able to, you know, make due with them, so --

25 Q. And the gentleman you named was --

1 A. Bona Smith.

2 Q. Was he the principal?

3 A. Yeah. Yeah, he was.

4 Q. Okay.

5 A. Sorry.

6 Q. I don't have time to go into that.

7 A. You have to know him. You'd have to know
8 him.

9 Q. While we're talking about classroom teaching,
10 does Coleville School District teach foreign languages?

11 A. Yes.

12 Q. What foreign languages does Coleville teach?

13 A. We teach French every other year.

14 Q. What do you mean by every other year?

15 A. Well, every other year. We teach it one
16 year. The next year we don't teach it. The next year
17 we do teach it.

18 Q. So if I'm a student in high school and I want
19 to take French, I'd take it in my freshman year.

20 A. Or your sophomore depending on what year --
21 kids have to have two years of foreign language and so
22 we try to offer it every other year so that if you take
23 it in your freshman year or your sophomore year, you
24 have an opportunity at least to get two years of the
25 same foreign language within the scope of four years in

1 Coleville High School.

2 Q. So at least in Coleville I would take it --
3 if I'm a freshman, the year -- if French is offered, I
4 take French my freshman year.

5 A. Right.

6 Q. I don't take it my sophomore year.

7 A. Right.

8 Q. And then based on what I remember from
9 freshmen year, I then take French again my junior year?

10 A. Yeah. Not very efficient, I understand, but
11 that's the way we have -- that's what we do.

12 Q. Why do you do it that way? Why don't you
13 just offer French every year?

14 A. Well, because the other -- the opposite year
15 the teacher that we have is teaching English and we --
16 for our kids to have four years of English that person
17 has to be in a classroom teaching English and we have
18 to -- you know, we have what we have and we have to
19 make due and make sure that we at least afford the
20 chance for kids to have two years of foreign language.
21 But, you know, I just had the conversation with my
22 principal on the phone last night about foreign
23 language and that he wants me to hire another Spanish
24 teacher because we teach Spanish. It's fairly
25 popular. We do teach Spanish every year and we have

1 two teachers that do that. But both of them, frankly,
2 have full classrooms and he wants me to hire another
3 Spanish teacher.

4 Q. So why don't you?

5 A. Well, the first question I asked him is what
6 do you want to cut. You know, because honestly, what I
7 do on a daily basis is triage. I determine what's the
8 most important vital, crucial thing that we have to do
9 amongst lots of vital crucial things and I pick and
10 choose which programs live and which programs die, you
11 know, because, you know, we can't afford to do all
12 that. So, you know, I told him, you know, what program
13 do you want to cut, Kevin, and he said I don't want to
14 cut any. I said, well, then you've got some kids to
15 tell you can't take Spanish. That's -- I mean, it's
16 bad news, but --

17 Q. All right. So I'm going back to activity
18 code 27. If you were to look at that then. That is
19 10.952 -- so it's 10.9 or 52 rounded up, \$11 million
20 then for classroom teaching?

21 A. Yes.

22 Q. If I can ask you then turn to the cover of
23 your financial statement under transportation vehicle
24 fund, please, understand expenditures.

25 A. Okay.

1 Q. And I see you have a whopping total of \$616.

2 Do you see that?

3 A. Yes.

4 Q. Did Coleville School District not buy any

5 buses that year?

6 A. No. Coleville School District doesn't own

7 any buses.

8 Q. How do they do their transportation?

9 A. We contract with a company to do that for us.

10 Q. Okay. So if I then ask you to turn to page

11 17 under the activity codes 51 through 59, do you see

12 those?

13 A. Yeah.

14 Q. And instead of having separate items for

15 every one of those, there's just that \$1.2 million

16 amount. Do you see that?

17 A. Right. That's our expenditure for our

18 transportation company.

19 Q. Is that for transportation to and from

20 school?

21 A. To and from school, correct.

22 Q. And so the cost to Coleville, at least of

23 transporting kids to and from school that year, is the

24 \$1.2 million amount listed there?

25 A. Correct. Yeah.

1 Q. If I could ask you then to turn to --
2 actually stay on that page and look at activity codes
3 21 through 22 and then 24 through 26. Do you see
4 those?

5 A. 21 through 24?

6 Q. Yeah 21, 22 --

7 A. Yes.

8 Q. And then 24, 25, 26. Do you see those?

9 A. 24, 25, 26, yes.

10 Q. And can you tell me generally what those are
11 paying for? Like learning resources?

12 A. Well, that is -- that is our teaching that
13 takes place, our certified people that are outside of
14 the classroom. That's our counselors, our -- I lost
15 that page, shoot. 17. That's out counselors, our
16 school psych, our custodian support, you know, for the
17 building. Custodians aren't part of that. Custodians
18 are part of the building, but it's our people who are
19 not part of the 27 code basically. Librarians. Our
20 librarians and certified librarians and our
21 counselors. What else is in that?

22 You know, I don't -- this is the state's
23 document so when I'm working on this in my own -- I
24 have my own form for it and this is not it so I'm
25 trying to picture it in that form.

1 Q. But state's coding of 21, 22, 24, 25, 26, is
2 that basically the non-classroom teaching?

3 A. Right, it's the support for the classroom
4 teacher.

5 Q. Okay. So if I add all those up, it's 1.7
6 million would be then the non-classroom teaching?
7 Adding up those activity codes we come up with 1.7?

8 A. I didn't do the math, but I'm sure you have
9 people doing that. And if you don't, I'm sure they
10 have people doing that.

11 Q. If I could ask you to look at activity code
12 23. Do you see that? It says principal's office. Do
13 you see that?

14 A. Yes.

15 Q. Could you tell me generally what that
16 activity code is paying for?

17 A. Yeah. That's our principal's salary, that's
18 our secretaries in the buildings. That's our contracts
19 we have with -- because each building has a contract
20 with the copy -- copy machine kinds of -- you know,
21 that's in their office. That's what they pay, I think,
22 for postage, for when they're mailing out their letters
23 to, you know, school wide letters to their parents and
24 their -- so that's basically to run those offices of
25 those six programs.

1 Q. Is that basically like the building
2 administration?

3 A. Yes, right.

4 Q. Okay. And the principals' salaries are
5 included in that?

6 A. Yes.

7 Q. And does the state fund the full salary that
8 Coleville pays to its principals?

9 A. No, they don't.

10 Q. Why does Coleville pay more than the state
11 funded amount for principals?

12 A. Well, you know, in all honesty, I've tried to
13 get principals to be a principal for what the state
14 gives us but I can't get -- I can't get anybody to do
15 that. I can't get a teacher to take a cut in pay to
16 become principal. You know, it's -- you know, frankly,
17 the state, you know, hasn't -- I think they started --
18 they addressed it last year but it's nowhere close to
19 what the market value is for our principal, not even --
20 it's ridiculous.

21 Q. I'm looking at activity code 23 here. Does
22 the actual cost to Coleville of operating the building
23 administration, that would be the 900 -- roughly
24 \$975,000 amount that's listed there?

25 A. That's the expenditure, yes.

1 Q. If I can ask you now to stay on that same
2 page. Activity codes 11 through 15, do you see what
3 that is? Do you see where I'm looking?

4 A. Yeah.

5 Q. Could you briefly describe what that's paying
6 for?

7 A. Yeah. Our board is -- that's for our board
8 for being involved in, you know, like WASA, and for the
9 benefits we got from that program where they send us
10 service for our policies and procedures. We get
11 updated policies and procedures from the state all the
12 time. Every time a law changes in the state, it
13 changes our policies and procedures. So it's a service
14 that's provided by WASA. We pay for that. That is the
15 superintendent's office, salaries, and supplies and
16 materials. It's our business office. It's the
17 salaries, supplies, and materials for our business
18 office.

19 Q. What does the business office do?

20 A. The business office is responsible for all of
21 these fiscal documents. They're responsible for
22 payroll, personnel, accounts payable, accounts
23 receivable, making sure our district is following state
24 requirements and following all labor laws and
25 everything, you know. The business part of the school

1 district.

2 Q. That overlaps somewhat the human resources?

3 A. Yes, that's human resources as well.

4 Q. Okay. Then I see public relations \$15,000.

5 What's that?

6 A. Well, we're required by the state to
7 communicate with our local community. And, you know,
8 that's postage. Basically that's postage for the two
9 or sometimes maybe three mailings that we do out to
10 communicate with our community to let them know what
11 we're doing and how we're spending their levy money and
12 how we're conducting business and those kinds of
13 things.

14 Q. Are there notifications required for, for
15 example, board meetings and things?

16 A. Oh, yes. Every board meeting has to have a
17 notification. In the newspaper, we have to put it on
18 the website, we have to have it posted.

19 Q. Is that state law that requires that?

20 A. Yes.

21 Q. And when it says board and directors there,
22 that's the elected school board?

23 A. That's the elected school board. I think
24 there's pay that's set aside for that school board, but
25 our school board basically donates that back to the

1 school district.

2 Q. Okay. Looking at activity code 65. Do you
3 see that?

4 A. Yes.

5 Q. What is that paying for?

6 A. Water.

7 Q. Those types of things?

8 A. Water, power, garbage.

9 Q. Activity code 68.

10 A. That's the -- that's what the insurance bill
11 is for our school district. We have 133,000 square
12 feet, you know, how many acres, 60 some acres. You
13 know, the liability insurance is going up all the time,
14 so that's our insurance bill.

15 Q. Okay. And looking at the categories 72
16 through 75, are those basically district-wide expenses
17 as well?

18 A. Right. Information systems is -- the state
19 requires us to have a database -- data systems set up
20 for all of our financial services and for all of our
21 statement data. That's how the state keeps track of,
22 you know, our -- all of the -- well, when we get our
23 report card every year, all of that data and all that
24 stuff is based off of the data system that's run
25 through ESD-101, which is kind of a burn to people's

1 backsides, too, in the school district arena because we
2 have no choice on that. This is what you'll do. This
3 is what it costs, and this is when you'll pay it. And
4 we have no say over it so it's a mandated cost from the
5 state that we have to incur so --

6 Q. What's the printing at Coleville? What are
7 you printing?

8 A. We found that -- we have a printer in each
9 building, real small one but we found that going to a
10 print center was more efficient and effective so that's
11 our print center. That's where the bulk of our
12 curriculum comes from is from the stuff people find and
13 use and have printed for the kids.

14 Q. Okay. So if I add up these activity codes 11
15 through 15, 65, then the 68 through 75 there, is
16 that what some people sometimes refer to generally as
17 district-wide expenses or district wide support?

18 A. I would say district-wide operating costs.
19 Those are the costs of doing business.

20 Q. If I add those up that is \$1.4 million
21 district-wide operating expenses?

22 A. Yeah.

23 Q. Okay. And if I can ask you to look at
24 activity code 28. What is that?

25 A. That says extracurricular.

1 Q. And what does that pay for?

2 A. That pays for all of our activities and
3 athletics and those kinds of things that are outside of
4 the sixth period day basically.

5 Q. Is that only athletics or is that --

6 A. Oh, know, that's our academic competition
7 groups. That's our FFA competition groups. That's
8 our -- that's clubs. That's all those hooks that I was
9 talking about before that keep kids engaged in school.

10 Q. Does that include anything in the arts?

11 A. Oh, absolutely. It's zero hour jazz band,
12 you know, it's the competitions that our musicians go
13 to around the state.

14 Q. Okay. This activity code 28, does it relate
15 in any way to education?

16 A. That's vital to education.

17 Q. Why do you say that?

18 A. For all the, I mean, reasons I've stated
19 earlier. Itself it is the hook that keeps kids engaged
20 in school, and, you know, it's -- there are things
21 taught in that arena that are vital to the success of
22 our kids.

23 Q. Like what?

24 A. Self-discipline, hard work, ethics, the six
25 pillars that were on the front of the school. That's

1 where they learn those things.

2 Q. And you mentioned a hook. Take, for example,
3 athletics in high school, how is that a hook and why
4 does that matter?

5 A. You know, I can't speak -- I mean, I can only
6 speak for kids over here as where I taught 20 years ago
7 and for -- you know, when I was a student at Snohomish
8 High School. But, over there there's not necessarily a
9 lot of emphasis on higher education. It's not a really
10 important thing. There has to be a reason for kids to
11 be in school all day and get all the things that they
12 can get. And, you know, frankly, they're not going to
13 sit in the classroom because they can't wait for
14 English class. You know, the spelling bee only holds
15 so many kids' interests.

16 You know, there are kids who will
17 endure, and this is the sad part about it all, but
18 there's kids who will endure class all day but they
19 can't wait to get on the stage after school and, you
20 know, for the play. They can't wait to do that. It's
21 the -- and it's not -- it's not a fuel. It's the
22 majority of them who can't -- who endure the rest of
23 that stuff. And then they don't -- because they don't
24 know until they get older how important that part of
25 the day was for them. I venture to guess lots of

1 people in this room didn't know how important their
2 education was to them until well after they were done
3 with it, you know. So there has to be some reason for
4 them to still be there and think this is it.

5 Q. And are you speaking from any sort of
6 personal experience on that?

7 A. Absolutely. Personally, I'm one of those
8 kids.

9 Q. Could you explain how?

10 A. Well, without going into, I guess, too much
11 detail. I was an angry young man, angry young man and
12 I was --

13 Q. Is this high school, before high school?
14 What time period are you talking about?

15 A. Well, let's just put it this way. I know
16 what poverty is. I grew up in a camper trailer moving
17 from campground to campground. I had people volunteer
18 and buy me stuff, you know, so I could participate.
19 You know, I was -- my parents who had no emphasis on
20 education whatsoever. You know, when I decided to go
21 to college I had to convince the rest of my family why
22 it was a good idea.

23 Q. And why did you go?

24 A. To play football. I mean, that's what I told
25 them because if I was going to college to get an

1 education they wanted to know why I was wasting my
2 time. You know, that's just the -- that's just the
3 background that I grew up in. And so, you know, I had
4 coaches in high school and I had a band instructor in
5 high school and I had a choir teacher in high school
6 and who gave me other reasons to be -- to stay there.
7 You know, because I could care less about math. I
8 could care less about science. You know, English, you
9 know, Macbeth just wasn't -- wasn't it, you know.

10 And interesting enough, I thought
11 Macbeth wasn't it and those kinds of things until
12 somebody talked me into being in a musical, Pirates of
13 Penzance, I think I was in when I was 17 years old, and
14 fell in love with it. I thought it was, you know, what
15 a great experience that was. So, you know, the things
16 I like to do, the things that were the hook for me was
17 I liked to run and hit people with my forehead and I
18 liked to sing and play the tuba. You know, those were
19 what tripped my trigger as a student.

20 Q. Is that what helped keep you in high school?

21 A. Oh, it's the only thing that kept me in high
22 school. It wasn't the rest of the stuff going. I had
23 no need for education, none whatsoever. You know, I
24 had a high school football coach who basically, you
25 know, saved me. You know, came and got me one day and

1 said, you know what, I don't care where you've been, I
2 don't care where you're going. You need to change your
3 playmates. You need to change your playground. You
4 need to, you know -- you need to realize that you're
5 not that guy. You're this other guy.

6 So he was crucial. He was crucial in my
7 life. And him and lots of other adults who were not my
8 parents who were crucial in my life, so, on a personal
9 note, I know what those kinds of things can do for
10 kids.

11 Q. And could you see that kind of thing
12 happening in Coleville?

13 A. Daily. Absolutely daily. Yeah. I can show
14 you tons of kids in our school who, without those kinds
15 of things in their lives outside of reading, writing,
16 and math absolutely would never have made it.

17 Q. I'd like to show you trial Exhibit 182,
18 please.

19 MR. AHEARNE: May I proceed, Your Honor?

20 THE COURT: Yes, you may.

21 BY MR. AHEARNE:

22 Q. Showing you trial Exhibit 182. Have you seen
23 this before?

24 A. Yes.

25 Q. This was actually a -- an exhibit to the

1 deposition that Mr. Shaw took of you in Coleville. Do
2 you remember that?

3 A. Right. This is a picture out of my office,
4 yes.

5 Q. And this is a photograph of the picture
6 that's off your office wall?

7 A. Yes.

8 Q. And in your deposition this came up at the
9 point of explaining the impact that athletics can have
10 in keeping kids in school; is that correct?

11 A. Yes. I think it might have been around why
12 is it important for graduation, or why -- I don't
13 recall exactly what it was. It was a long time ago.
14 But why is it important for kids to have this in their
15 lives.

16 MR. AHEARNE: Okay. And, Your Honor, I'd
17 like to move to admit Exhibit 182.

18 THE COURT: Any objection to 182?

19 MS. BASHAW: No objection, Your Honor.

20 THE COURT: 182 is admitted.

21 EXHIBIT ADMITTED

22 BY MR. AHEARNE:

23 Q. Okay. Since this photograph is sort of
24 fuzzy, I asked -- actually I placed a message to you to
25 see if you could bring the actual photograph from your

1 wall so we could just use that.

2 A. Right.

3 Q. And is this the photograph that's the framed
4 photo from your wall?

5 A. Yes.

6 Q. Okay. And how, if at all, does that -- the
7 kids in that photograph relate to your point about
8 athletics being an important hook to keep kids in
9 school? I mean, were the kids -- were the kids in the
10 photograph, would they have graduated, from your
11 experience, without the football program?

12 A. Well, in all fairness, I think -- I think --
13 and I'm not sure about this but you could probably read
14 the deposition. But in the deposition I think
15 sometimes it's great that we have this great graduation
16 requirement but half of those kids wouldn't graduate
17 without having the hook of athletics or activities.

18 In this picture -- I mean, you know,
19 when I go through this picture kid by kid in this
20 picture, it's not half. It's eight out of 18 of these
21 kids absolutely would not have graduated had it not
22 been for this program, the coaches and the other kids
23 involved in this program.

24 Q. Okay. This is what I'd like to do first.
25 Could you describe what this is a picture of?

1 A. Sure. These kids just finished playing --
2 just finished playing a football game, extremely tough,
3 physically demanding. I mean, it was a knock down,
4 drag out game against a physically superior team, and
5 it was basically for our league championship, and they
6 just won that.

7 Q. And do you know who each of these kids are?

8 A. Yeah, I know every one of these kids.

9 Q. Okay. And without saying their number or
10 their name, you mentioned that there were eight that
11 you think absolutely would not have graduated from high
12 school without this football program; is that correct?

13 A. Yes, eight of the 18 absolutely would not
14 have graduated.

15 Q. Again, without saying their name or their
16 number, could you just give a brief description for
17 each one as to why you're saying that, each of those
18 kids -- well, what kind --

19 A. I'll try. I'll try not to say their name or
20 number.

21 Q. You can point to it -- if it helps you
22 remember, you can point to it for yourself. But --

23 A. Well, I don't know. I don't know how to do
24 this for everybody, but can I show you? How's that
25 work? I can point to them. Do you want me to do

1 that?

2 THE COURT: It is not going to help the
3 record at all.

4 BY MR. AHEARNE:

5 Q. No, it's not. I think that you can just hold
6 the photograph there, and you can just say, you know,
7 one of these kids --

8 A. Okay.

9 Q. And explain a little background, and --

10 A. Okay.

11 Q. -- why you make the conclusion that --

12 A. Yes.

13 Q. -- they wouldn't have graduated.

14 A. This guy is under an IEP -- was under an IEP,
15 has a speech impediment, teased as a young kid. Had a
16 tough time. The rest of these kids took him under
17 their, you know, care basically, protected him,
18 convinced him to stay in school, convinced him to get a
19 diploma and graduate. And he is working out in the
20 community right now as a welder with Comack Coil.

21 This guy had lots of drug issues,
22 basically family group dope up in Union Creek, which is
23 not uncommon. But that's kind of what they do up
24 there, so -- but that's kind of where his family was
25 at, but he could run like the wind and kids really

1 liked him. They, you know -- he was really good at
2 it. He ended up going off to college on a scholarship
3 to play football. And when I say that, you know, that
4 sounds bad, he went off to college to play football.
5 But most kids who graduate and go off to college to
6 play football can't tell you what they're going to be
7 when they grow up because they don't think they're
8 going to be a professional football player. That's
9 what they live for. So although he's going off to
10 college to play football, more than likely he'll get a
11 pretty good education along the way. That's what
12 happened to me.

13 This guy was living in Federal Way, came
14 over to Coleville one summer with granny and grandpa,
15 went to a football camp. The reason he came over one
16 summer was because he was in Federal Way. He was
17 involved in a pretty nasty group of individuals. I
18 wouldn't call it a gang necessarily. I don't know
19 that. I think -- do they have gangs in Federal Way? I
20 don't know. From here. But, anyway, he was from
21 Federal Way and mom and dad said we need to get you out
22 of Federal Way and we need to get you in Coleville with
23 granny and grandpa. The reason he moved over and
24 stayed with granny and grandpa was because he wanted to
25 be a part of this group of guys.

1 Q. What did that have to do with whether he
2 would have graduated or not though?

3 A. What's that?

4 Q. What did that have to do with whether he
5 graduated or not?

6 A. Well, I talked to him about the kinds of
7 things he was doing in Federal Way before he came over
8 to Coleville, and there's no way he would have stayed
9 in school there with the kinds of things that he was
10 doing.

11 I think what he found out was that you
12 could be in a gang and have it be a positive experience
13 and not be --

14 Q. And a gang you're referring to there is the
15 seniors in this photograph?

16 A. It's the whole entity is the gang. It's the
17 family of athletes and students, so --

18 This young man was extremely strong, was
19 born with -- under Fetal Alcohol Syndrome. Mom I
20 guess -- anyway, you know what that is. He had -- as
21 it was, I had a tough time keeping him even though he
22 was part of this program. He was really difficult to
23 keep in school and graduate. But has a family now,
24 lives in Coleville, has a family. Actually doing
25 pretty good. So he graduated from high school. I

1 think he's a framer. He works for a local contractor
2 as a framer.

3 Would have graduated. Would have
4 graduated.

5 This young man is a freshman. We had an
6 issue in our park where he stole hydrocodone from his
7 grantparents, you know, 100 of them, or so, and we had
8 10 kids who had overdosed in our park and some of them
9 just about died. It was a huge deal, and this young
10 man was basically the one who was supplying everyone
11 hydrocodone, and we sent him off to treatment. After
12 he got back from treatment he had another lapse. We
13 sent him off to treatment again. But he was really
14 struggling in his life, and I think this program is
15 what kept him going, and he is off in college now to
16 become a counselor, drug dependency counselor. So he's
17 clean and working towards the other way.

18 This guy right here is now an ultimate
19 fighter. He's a -- you know what an MMA is? Mixed
20 partial arts. So he's an ultimate fighter. Graduated
21 from high school. He and one of my alternative school
22 graduates are partners. The alternative school
23 graduate owns a pizza chain, West Side Pizza. You'll
24 be seeing them shortly. They have 20 stores around the
25 State of Washington, and they're, like, the fastest

1 growing business in town. But they're partners and he
2 sponsors this young man, and this young man has a shirt
3 line. He started a business where they sell the
4 clothing for ultimate fighters. I guess it's a pretty
5 being deal for kids, but they're called Fight
6 University, School of Hard Knocks. That's the name of
7 the company. So him and the pizza owner have a company
8 now where they're selling those. He's doing good, but
9 I but had a tough time keeping him in school to
10 graduate. What he found is that he could hit people on
11 the football field and he was good. That was a good
12 thing. You know, so he saved his hits for the football
13 field and not for the --

14 No names. Sorry. This Hispanic young
15 man, his parents wanted to keep him at their
16 restaurant, working at the restaurant once he turned 16
17 and could leave school. He convinced them that the
18 team needed him, so he was able to stay in school and
19 finish.

20 (REDACTED NAME)

21 MR. AHEARNE: I would move to strike the name
22 from the record, please.

23 THE WITNESS: Sorry.

24 THE COURT: The name is stricken.

25 BY MR. AHEARNE:

1 Q. This guy.

2 A. This guy was from a family that was really
3 pretty abusive and a lot of issues in the family, a lot
4 of alcoholism. Loggers and basically family was
5 saying, you know what, don't waste your time in
6 school. You need to get out there and start logging.
7 And he graduated and now is, you know, doing the
8 artwork around the community and welding for people and
9 cutting, doing that kind of stuff.

10 That's it? Any more?

11 Q. So the eight individuals that you went
12 through, do you know each and every one of those?

13 A. Yeah, personally. I know them personally,
14 yes.

15 Q. And it's your belief that if it wasn't for
16 the athletics activities that your schools had, that
17 they would not have stayed in high school?

18 A. Yeah. That's just this class this year, this
19 group of individuals. That's not uncommon.

20 Q. Going back then to activity code -- I'm done
21 with that. Going back then to activity code 28, the
22 athletics programs thing that you were talking about
23 there, is that within that activity code 28?

24 A. Yes.

25 Q. And if I'm looking at the numbers right,

1 that's about \$350,000. It's called extracurricular; is
2 that right?

3 A. That's called extracurricular. I don't --

4 Q. What do you call it?

5 A. Well, I think it's crucial to the kids' lives
6 so extracurricular sounds pretty weak to me. I would
7 say it's way more important than being something that's
8 just extra.

9 Q. What would you call it?

10 A. I would call it part of the curriculum.

11 Q. Some people call it co-curricular. Would
12 that be a phrase you would use?

13 A. Sure. That means part of, yeah.

14 Q. Now, you mentioned the ASB fund earlier.
15 Does the ASB fund pay anything with respect to the
16 athletic competitions, the art competitions, or the
17 academic competitions that you talked about?

18 A. Yeah, they pay for the transportation a lot
19 of times for that. They share that with levy funds.
20 So, when ASB funds can't pay for the transportation,
21 the levy funds kick in. They pay for the officials for
22 those programs. They pay for the uniforms for those
23 programs.

24 Q. And does Coleville have any pay-to-
25 participate rules at all, program requirements?

1 A. We did when we failed the levy, yeah. Yeah.
2 We don't -- we don't this year because we still have a
3 levy.

4 Q. And were there any results? What was the
5 impact when you did impose a pay-to-participate
6 requirement?

7 A. Well, I won't, and there's a lot of people in
8 my community that won't let money for those kids be an
9 issue for why they're not involved in -- so, if there
10 was a kid who didn't have the funds for pay-to-
11 participate, we made sure that it got paid somehow. So
12 we have people in town who will do that and I do that a
13 lot and teachers -- different teachers and coaches do
14 that. And, you know, not just pay-to-participate,
15 cleats, gloves, and you name it. It's -- you know.

16 Q. Something that you and other staff or other
17 community members pay for then?

18 A. Yeah, it's important enough. It needs to
19 happen, so.

20 Q. All right. I ask you to turn to activity
21 codes 41 through 49, please.

22 Could you generally describe what those
23 are paying for.

24 A. Food upgrade. That's our food service
25 program.

1 Q. Does food service relate to education in any
2 way?

3 A. Oh, absolutely. We have --

4 Q. How?

5 A. Well, we have kids there who are at school
6 from 5:00 in the morning until, you know, 6:00 or 7:00
7 at night. They have to eat. We feed them breakfast,
8 you know. We feed them lunch, you know. Without which
9 a good portion of them wouldn't -- I mean, that's the
10 best meal that they eat is the one that they eat at
11 school, so I think it's crucial. You know, I mean, how
12 do you learn when you're hungry? I mean, it's
13 hierarchy of needs; food, shelter, safety. It comes
14 before any of the rest of it, so.

15 Q. Okay. And the total there, if you add those
16 up, that's approximately 650,000. Add all those up and
17 it comes to about \$18.8 or \$18.9 million.

18 Is that then the actual cost for
19 operating the Coleville School District services and
20 facilities that year was at least the \$18.9 million?

21 A. At least because you -- because you didn't
22 add in there the Capital Projects Fund. We didn't add
23 in there what ASB kicks in towards that. We didn't --
24 so that's a minimum, I would say, of that it costs us
25 to do that.

1 Q. Okay. So if I ask you to look at the front
2 page of the F-196 under total expenditures, far right-
3 hand side, there's a 19.3 -- almost 19.4 figure. Do
4 you see that? \$19,391,747.75. Do you see that?

5 A. Yes.

6 Q. Is that the total cost of operating the
7 Coleville School District in this year?

8 A. That is the total expenditure of the school
9 district, yes.

10 Q. I'm done with that exhibit for a little
11 while.

12 Has the state specified in any way the
13 knowledge and skills that the Coleville School District
14 is supposed to be teaching its students?

15 A. Yes, they have.

16 Q. And how has it done that?

17 A. We have the Essential Academic Learning
18 Requirements that the state puts out. You know,
19 following those are GLE's, Grade Level Expectations.
20 Now I think they call them power standards. There's,
21 well, House Bill 1209 and everything that entails, yes.

22 Q. Okay. If I could hand you Exhibit 144,
23 please. It's already been admitted. Handing you
24 Exhibit 144. Have you seen this document before?

25 A. Yes, I have.

1 Q. And the Essential Academic Learning
2 Requirements that you just referred to, are those the
3 ones that are described on Exhibit 144?

4 A. Right. Correct.

5 Q. You notice at the bottom above the chart it
6 says, These standards define what all students should
7 know and be able to do at each grade level. Do you see
8 that?

9 A. Yes.

10 Q. Is that your understanding of what the
11 state's Essential Academic Learning Requirements
12 define?

13 A. Yes.

14 Q. There's then four numbered paragraphs on
15 Exhibit 144. One, read with comprehension, two, apply,
16 et cetera, et cetera. Do you see those paragraphs?

17 A. Yes, I do.

18 Q. Do you know where those come from?

19 A. They come from House Bill 1209.

20 Q. It says the Washington State learning goals.
21 What do you understand that to mean?

22 A. Well, I guess -- I guess I hate to use this
23 athletic kind of thing, but it's been a big part of my
24 life. But I would say that, you know, for us having a
25 goal isn't just kind of a lilly-nilly thing. It's a

1 big deal.

2 You know, when -- you know, when you
3 are -- here's an example. When I coached football,
4 when the running back ran over the goal line, right --
5 the goal was to get over the goal line, and never did
6 one of our kids cross the goal line that every kid on
7 the team didn't cross the goal line -- or every kid on
8 the field. So I would have all of my -- all 11 players
9 on the team cross the goal line or it wasn't a
10 touchdown. It wasn't just that they helped one kid get
11 across the goal line, it was that we all crossed the
12 goal line because every one of them worked hard to get
13 there.

14 So I struggle sometimes with that kind
15 of, oh, yeah, it's a goal or whatever, but, you know,
16 because, you know, for us that's a big deal. It's a --
17 it's everybody crosses the goal line, and in order to
18 score a touchdown, you have all got to cross the goal
19 line.

20 And so, you know, the -- I mean, when
21 you read through these, the thing that's -- I guess I'm
22 going to be honest with you. This gets frustrating for
23 me sometimes because it's -- it's a word kind of game
24 sometimes. Things are a word game, like -- I don't
25 know. I want to be very nice how I say this. But --

1 but for me this is kids' lives. This is important
2 stuff. Read with comprehension. God, that's easy to
3 say. That's an easy thing to say but can anybody who's
4 not an educator tell me what the heck that means? You
5 know, how does a kid read with comprehension? Most
6 people in this room would say go to school. That ain't
7 it.

8 I mean, how did a kid take a complex set
9 of symbols that they've never seen before turn them
10 into meaning, you know, stick all those things together
11 in a sentence with another complex set of symbols,
12 right, and make meaning out that, put it into several
13 of those kinds of things we call sentences and
14 comprehend what that whole thing means? How does a kid
15 do that? It's extremely complex. Extremely complex.
16 It's difficult to make that happen.

17 And you know what? That's kind of what
18 one and two are. Those are the easy ones. Those
19 aren't the hard ones. The hard ones are three and
20 four. How do you help a young person think
21 analytically? How do you help them understand the
22 importance of work and finances in their life and stuff
23 when they're, you know, 15, 16 years old? How do you
24 do that. You know, so I get frustrated because of the
25 way people say this and, oh, yeah, that's simple.

1 That's easy. And it's extremely -- I'm sorry. I'm,
2 like, compassionate about this. It makes me frustrated
3 sometimes.

4 Q. If we get back to --

5 A. Sorry.

6 Q. Okay. It says Washington State learning
7 goals, right?

8 A. Yes, it says goals.

9 Q. Right. And it's then got those four numbered
10 paragraphs, 1, 2, 3, 4, right?

11 A. Yes.

12 Q. And as the superintendent of the Coleville
13 School District, what does that word goals mean to
14 you?

15 A. That's what you're going to do. That's what
16 all of us are going to do, bar none, everybody.

17 Q. Right. Everybody in the school district is
18 going to, all the children are going to do. I mean,
19 when you say everybody --

20 A. Well, we're all going to do it together but
21 it's all the kids who are going to get across the goal
22 line. Absolutely.

23 Q. If I can ask you to look at trial Exhibit
24 678, please. Do you have Exhibit 678 in front of you?

25 A. Yes.

1 Q. Have you seen this document before?

2 A. Yeah, I think I have.

3 Q. And it says at the top first paragraph reads,
4 With passage of House Bill 1209 in 1993, Washington
5 launched a major effort to prepare children for life in
6 a challenging and complex 21st Century world.

7 Do you see that?

8 A. Yes.

9 Q. Is that the House Bill 1209 you were
10 referring to?

11 A. Right. 1993. Yes.

12 Q. Okay. And you see there's a section under
13 Essential Academic Learning Requirements, do you see
14 that?

15 A. Yes.

16 Q. Could you read those paragraphs to yourself
17 because I'll have a follow-up question on those after
18 that.

19 A. (Reviewing.) Okay.

20 A. Yeah.

21 Q. Does that describe what -- is that your
22 understanding of what the Essential Academic Learning
23 Requirements are, what's described in those three
24 paragraphs?

25 A. Yes.

1 Q. And does that include that you're
2 understanding that the Essential Academic Learning
3 Requirements specified by the state are, To specify the
4 skills and knowledge and core subjects that all
5 students are expected to master as they move through
6 the Washington public schools?

7 A. Yes.

8 Q. And if I could ask you to turn to the next
9 page. In this exhibit, there's a paragraph at the top
10 that starts, Washington's Assessment of Student
11 Learning. Do you see that?

12 A. Yeah -- yes.

13 Q. If you could please read to yourself the
14 paragraph under that because I'll have a follow-up
15 question.

16 A. (Reviewing.) To what makes the WASL to that
17 or just those two paragraphs?

18 Q. Just that paragraph.

19 A. Okay. I got it.

20 Q. Is that your understanding of what the
21 Washington Assessment of Student Learning is designed
22 to do?

23 A. Yeah, I feel like there's something that's
24 missing here, something else that I've read about,
25 about, you know, effectively working our democracy

1 and -- I didn't read that in this.

2 Q. Okay.

3 A. So --

4 Q. Something that talks about the effect?

5 A. Well, there's other things that kids are
6 expected to be able to do. They're expected to be able
7 to participate in our democracy. They're supposed to
8 be able to. I didn't read that here, did I? So I
9 think this is missing. But I -- but these are what I
10 understand our expectation to be, yes.

11 Q. All right. And does that include -- is it
12 your understanding that, as the superintendent of the
13 Coleville School District, that the WASL is to measure
14 the progress students are making towards mastering
15 fundamental skills in reading, writing, mathematics,
16 and science that are identified in the official
17 learning requirements?

18 A. Yes.

19 Q. Okay. And does the state issue any kind of a
20 of report card or anything on whether the children in
21 the Coleville School District are learning the
22 knowledge and skills specified in Washington's
23 education standards?

24 A. Right. Every year we get a report card on
25 how we're doing.

1 Q. I'm going to ask you to look at trial Exhibit
2 689, please. Handing you trial Exhibit 689. If I
3 could ask you to turn to tab five, please. Do you see
4 that?

5 A. Yes.

6 Q. Is that the report card that you referred to
7 with respect to Coleville for the 2008-2009 year?

8 A. That's correct.

9 Q. Okay. And do you know what the purpose is of
10 this report card or what kind of information it
11 summarizes?

12 A. It's accountability.

13 Q. When you say accountability, what do you
14 mean?

15 A. The purpose of the report card is that check
16 accountability for what it is that is happening in our
17 district.

18 Q. Okay.

19 A. It's also got a lot of demographic
20 information on it about our district though.

21 Q. Okay. Now, the accountability of what's
22 happening in your district, where do the WASL scores
23 show with respect to accountability?

24 A. Any particular one or all of them or --

25 Q. Just in general.

1 A. In general?

2 Q. The WASL scores for Coleville School District
3 are acceptable?

4 A. Do I think they're acceptable? Absolutely
5 not.

6 Q. Why not?

7 A. Because there's kids failing.

8 Q. Do you believe that all children in the
9 Coleville School District could meet the state's
10 standards?

11 A. Absolutely, I do. Yes.

12 Q. What's the graduation rate that's shown on
13 the state's report card for Coleville School District?

14 A. Is that under demographics?

15 Q. Maybe the last two lines of demographic above
16 teacher information.

17 A. On-time graduation rate is 86.8 percent.

18 Q. And what's the difference between on-time
19 graduation rate and extended graduation rate?

20 A. That's when a student walks in in 9th grade
21 and graduates in four years and the other one is if
22 they graduate -- if they take longer to graduate.

23 Q. And do you believe that the graduation rates
24 in Coleville School District are acceptable?

25 A. No, absolutely not.

1 Q. Why not?

2 A. Because 14 percent of our kids aren't
3 graduating on time, and 13 percent of our kids aren't
4 graduating at all.

5 Q. Why does that matter?

6 A. Well, do you know what happens to kids that
7 don't graduate from my school? I do.

8 Q. What?

9 A. I know exactly what happens. I see them in
10 our community. I see them -- 27, 28 year olds riding
11 their bicycle round town with their food stamps taking
12 them down to the store trying to figure out how to buy
13 beer with them. You know. They're not -- I don't know
14 if you see this, but, in Coleville, you know, our
15 kids -- our bright shining stars from our school
16 graduate from high school and they go off to college
17 and then they go become some bright shining star of
18 somebody else's community. They don't typically stay
19 in Coleville.

20 The people who typically stay in
21 Coleville are those people who aren't the bright
22 shining star, who didn't graduate, who don't have any
23 place to go, and they stay in Coleville and are there
24 for generations. Those are the people that then are
25 having children, and those children now are coming into

1 our schools. Those are the people who, when I try to
2 inform our community about a levy and put out a levy
3 document, can't read it, you know. You know, they're
4 the people who are angry. They're angry at us.
5 They're angry at the world because of their -- where
6 they're at in the world. They don't have the
7 education. Those are the kids who don't graduate, drop
8 out of school, stay in town, and become an absolute --
9 what's the word I'm looking for. They completely pull
10 down our community, our system.

11 You know, that's 13 out of every 100
12 kids that -- that's a huge -- that's horrible.

13 Q. Do you believe all children can graduate from
14 high school?

15 A. Absolutely I think they all can.

16 THE COURT: Mr. Ahearne, we're just about at
17 four o'clock and we do have the four o'clock matter, so
18 why don't we adjourn this matter for the day.

19 I do want to bring up one housekeeping
20 matter. Next Thursday it looks like -- let me just
21 make sure I have this right. Thursday, September 10th,
22 it appears as though the judges have been called to a
23 mandatory meeting from one o'clock to four o'clock, so
24 we may lose next Thursday afternoon for testimony. I
25 will confirm that by tomorrow, but it looks as though

1 it's mandatory. So we'll have to make up that time
2 somewhere.

3 MR. AHEARNE: All judges means all judges?

4 THE COURT: That would appear to be the
5 proper statutory construction.

6 MR. AHEARNE: Your Honor, we -- if --

7 THE COURT: Yes.

8 MR. AHEARNE: We have one short matter with
9 respect to filing a written interrogatory answer from
10 Secretary of State, Sam Reed.

11 THE COURT: Okay. Can that be handled
12 tomorrow morning?

13 MR. ROBB: Sure. Yes, because you have
14 that --

15 THE COURT: I mean, would that be all right
16 if we did it then?

17 MR. AHEARNE: Yes, Your Honor.

18 MR. ROBB: Yes, Your Honor.

19 THE COURT: Why don't we go ahead and get
20 that interrogatory filed.

21 You can step down.

22 THE WITNESS: Thank you very much.

23 MS. BASHAW: Your Honor, there is some
24 further discussion that needs to occur on this.

25 THE COURT: All right. Do you want to confer

1 first and see if you can resolve any issues, Mr. Robb?

2 MR. ROBB: That's fine, Your Honor.

3 THE COURT: All right. If there's going to
4 be argument, I can't take it now. So you'll either
5 need to resolve it or we'll have to discuss it when we
6 don't have another matter pending.

7 MR. ROBB: Okay.

8 THE COURT: Okay. Thank you.

9 (Whereupon proceedings concluded.)

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